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Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

12 Cr. 177 (WHP)

5 ALI OKLU,

6 Defendant.

7 -----x

8 April 18, 2013

9 11:10 a.m.

10 Before:

11 HON. WILLIAM H. PAULEY III,

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the
16 Southern District of New York

17 BY: CARRIE COHEN

Assistant United States Attorney

18 FEDERAL DEFENDERS OF NEW YORK, INC.

Attorneys for Defendant

19 BY: PHILIP WEINSTEIN

20 - also present -

21 SA Kenneth Hosey, FBI

D4idokls

Sentence

1 THE CLERK: The case of United States of America
2 against Ali Oklu.

3 Appearances for the government?

4 MS. COHEN: Good morning, your Honor. Carrie Cohen
5 for the government. With me at counsel table is Special Agent
6 Kenneth Hosey from the Federal Bureau of Investigation.

7 THE COURT: Good morning, Ms. Cohen.

8 THE CLERK: Appearances for the defendant?

9 MR. WEINSTEIN: Phil Weinstein. With me is Mr. Oklu.

10 THE COURT: Good morning, Mr. Weinstein.

11 And I note Mr. Oklu's presence at counsel table.

12 This is a continuation of the sentencing proceeding
13 that we began last week.

14 Are the parties ready to proceed?

15 MR. WEINSTEIN: Yes, your Honor.

16 MS. COHEN: Yes, your Honor.

17 THE COURT: All right. Let me say first that I
18 received a communication from Pretrial Services indicating
19 that, as I had directed them last week to test Mr. Oklu on
20 Monday, that in fact Mr. Oklu was tested and that the results
21 were negative, and so this Court is prepared to proceed to
22 sentencing.

23 Mr. Weinstein, have you reviewed with your client the
24 presentence investigation report?

25 MR. WEINSTEIN: I have, your Honor.

D4idokls

Sentence

1 THE COURT: Are there any factual matters set forth in
2 the report that you believe warrant modification or correction?

3 MR. WEINSTEIN: Not consequential. At one point in
4 the report there is a reference to his parents returning to
5 Turkey.

6 THE COURT: Yes.

7 MR. WEINSTEIN: That is incorrect. They are remaining
8 here in the United States.

9 THE COURT: All right.

10 MR. WEINSTEIN: So I --

11 THE COURT: Well, let's find that paragraph.

12 MR. WEINSTEIN: OK. It is 122, the last sentence.

13 THE COURT: All right. I am going to strike that last
14 sentence. I'm physically striking it.

15 Anything else?

16 MR. WEINSTEIN: Not in the presentence report.

17 THE COURT: All right. Ms. Cohen, are there any
18 factual matters set forth in the report that the government
19 believes warrant modification or correction?

20 MS. COHEN: No, your Honor. I just wanted to correct
21 something that the government represented to the Court at the
22 last sentencing hearing regarding the type of vehicle that the
23 defendant currently has on lease, and we stated that we believe
24 it is a BMW. I stand corrected. It is a 2011 Mercedes-Benz
25 350 Series convertible. It doesn't appear in the report. It's

D4idokls

Sentence

1 just I wanted to correct my representation on the record.

2 THE COURT: All right. Thank you.

3 Do you wish to be heard, Mr. Weinstein?

4 MR. WEINSTEIN: Yes, your Honor.

5 First, let me attempt to clear up a few things.

6 Last, I guess, Thursday the Court was disturbed, and
7 for perhaps seemingly good reason, about Mr. Oklu's inability
8 to void for a test. I have doctors' letters. This condition
9 has come long before this happened, where he was examined for
10 renal failure and the rest. So -- may I hand it up?

11 (Pause)

12 THE COURT: All right. Thank you. I have reviewed
13 the letter from Dr. Escobar.

14 MR. WEINSTEIN: Thank you, your Honor.

15 Second, the Court expressed some concern about
16 Mr. Oklu's income and failure to hire an attorney and also the
17 car. So he did solicit right after I got the case three
18 attorneys, each of whom quoted him \$50,000 up front, plus more
19 if the case went to trial. I am happy to give the Court the
20 names of the attorneys. I have the names and phone numbers.

21 THE COURT: That is not necessary.

22 MR. WEINSTEIN: OK. Second, with respect to the car,
23 it was a lease that was entered into prior to his arrest.
24 Under the terms of the lease -- and I've confirmed this with
25 people in our office who lease cars, I don't have a car -- you

D4idokls

Sentence

1 are responsible for the full payment if you cancel within the
2 term of the lease unless it can be subleased. So the monthly
3 payment that was due for the cars would continue, and that
4 would be another part of his debt.

5 In addition, I think --

6 THE COURT: Has he been making payments on his
7 Mercedes convertible?

8 MR. WEINSTEIN: Not since -- he has now lost his job,
9 obviously, when he pled guilty. He resigned --

10 THE COURT: That was back in December?

11 MR. WEINSTEIN: Back in December. Up 'til that point
12 you were making payments?

13 (Mr. Weinstein conferred with the defendant)

14 MR. WEINSTEIN: Yes. Up until the point he lost his
15 job at the Police Department he was making payments. He was
16 working for the Police Department. He lives in Queens and his
17 precinct -- I'm sorry.

18 He lives in Queens and he was working in Manhattan.
19 He was --

20 THE COURT: He lives with his parents.

21 MR. WEINSTEIN: Yes, that is correct. And that is
22 reflected -- he helps with the rent, which I think is reflected
23 in his expenses, I think \$600, \$600-some-odd per month. So he
24 doesn't have overwhelming expenses. I think his expenses are a
25 little over \$3,000 a month, if I recall correctly.

D4idokls

Sentence

1 But the point is he has negative equity. Each of the
2 lawyers wanted \$50,000 up front and additional money if the
3 case went to trial. It is a case that obviously I was involved
4 in and it ended up in a guilty plea, but there were multiple
5 hours of discovery of videotapes that had to be reviewed. I
6 don't know what these lawyers charge per hour. I know I put in
7 a lot of hours reviewing the videotapes alone, plus other parts
8 of the work. So I don't know if that is an appropriate fee or
9 inappropriate fee, that is well beyond something that I do.
10 But he did consult three attorneys recommended by various
11 people in the PBA as knowledgeable in this area.

12 So hopefully that will clear some of that.

13 THE COURT: Has his car been repossessed?

14 MR. WEINSTEIN: At the end of this month it will be
15 surrendered. I mean, he is accumulating whatever he owes on
16 the car; he is not making payments.

17 THE COURT: Well, he is not making payments on lots of
18 things.

19 MR. WEINSTEIN: Right.

20 THE COURT: His student loan debt and everything else
21 that this country did for him, after we made him a U.S.
22 citizen.

23 MR. WEINSTEIN: Well, he was a U.S. citizen, I think,
24 when he was 8, 9.

25 THE COURT: Yes. Like I said, after we made him a

D4idokls

Sentence

1 U.S. citizen.

2 MR. WEINSTEIN: All right. I mean, he obviously has
3 substantial debt and -- OK.

4 So let me -- at least those are the explanations I
5 have for those factors.

6 THE COURT: All right.

7 MR. WEINSTEIN: As the Court knows, there are
8 stipulated guidelines in this case and we are not challenging
9 them. It is 36 to 46 months. In the last page of my brief I
10 made a mistake and said 47 months. It is in fact 46 months.
11 Probation has recommended a top of the guidelines' sentence of
12 46 months. Their reasoning is that it was egregious for a
13 police officer to transport guns, to abuse trust, and for not,
14 in their view, providing any explanation for his conduct. And
15 the government adopts that view, not that it necessarily is the
16 top of the guidelines but that a guidelines' sentence is
17 appropriate, and we are not disputing that.

18 The issue is whether the sentence is appropriate, that
19 is, a top-of-the-guidelines' sentence is appropriate in this
20 case. And the government talks about the wisdom of the
21 guidelines and other studies. But the foundation of the
22 guidelines, as I understand them, that aside, is to reduce
23 disparity among similarly-situated defendants and among
24 different courts that impose sentences for similar conduct.
25 And there were 11 defendants in this case, there were nine

D4idokls

Sentence

1 judges, and it becomes a particularly difficult task,
2 obviously, to balance all of that. But the sentences in this
3 case have ranged from 57 months for the leader, Mr. Masso, to
4 10 months, effectively a year and a day, which is in effect 10
5 months.

6 THE COURT: Or 11 months.

7 MR. WEINSTEIN: Or 11 months, 10-plus months.

8 Five of the defendants, like the defendant, are
9 current or former police officers who were either full-time or
10 ended their department responsibilities at some point. None
11 obviously have prior records; they couldn't as a police
12 officer. Five were involved in the transportation of firearms,
13 which I think, at least on a gut level, strikes as the most
14 serious part of it, not that the other isn't but the firearms
15 part is particularly, and yet the sentences were all over the
16 lot.

17 Mr. Masso, who was a leader, recruiter, and did
18 everything, got 57 months, which would be 11 months longer than
19 is recommended for Mr. Oklu.

20 Mr. Venezia, who is an active NYPD, three trips, 24
21 months.

22 Goris, 11 trips, 36 months, and he was the one who
23 recruited Mr. Oklu. He did not know Masso at the beginning of
24 this.

25 THE COURT: I'm sorry. Who?

D4idokls

Sentence

1 MR. WEINSTEIN: Mr. Goris, G-o-r-i-s. According to
2 the presentence report, he had done 11 trips. He was the
3 person who had recruited Mr. Oklu, introduced him to Masso, and
4 he got 36 months from Judge Jones. And I understand that the
5 Court is not bound by what probably was a guideline error made
6 by Judge Jones in not providing for a defaced serial number
7 enhancement in that case. Nevertheless, under 3553(a) the
8 Court, disparity is a factor the Court can look at.

9 Mr. Ortiz, who made five trips, got 27 to 33 months.

10 And Trischitta, who the Court sentenced, got 40
11 months. He made at least six trips. The government said his
12 guidelines were 33 to 41 months. At least reading the
13 government's memos in those cases, in fact, it was 37 to 46
14 months, which means he got a mid-level sentence of 40 months.

15 Probation argues in part, and the government accepts,
16 that Mr. Oklu's post-offense conduct, which was exemplary -- or
17 he was a sergeant, he participated in over 20 arrests --
18 somehow makes his conduct worse. I don't quite understand the
19 logic of that. That if, in fact -- I mean, I'm not claiming
20 post-offense rehabilitation here, or anything like that, but he
21 did continue to work -- he needed the money -- as a police
22 officer. He stared at monitors all day and participated in
23 over 20 arrests, according to his sergeant, and was a very good
24 cop. So it is certainly not an aggravating factor. I mean,
25 the Court can weigh it as it wants, but it doesn't make his

D4idokls

Sentence

1 conduct worse, as Probation argues.

2 So finally, the final part to this is -- and I know
3 this isn't a ground for downward departure, and I'm not asking
4 for it or even a variance, but police officers who do time in
5 prison, it's particularly hard. They are obviously targets of
6 other inmates for what they do. If the Court were to remand,
7 as Ms. Cohen had asked the last time, if the Court imposes a
8 jail sentence, if it were to remand him and while he is being
9 designated, the chances are he would be in SHU until he is
10 designated, for his own safety, because especially at MCC and
11 MDC, where it is quite possible he would run into people whose
12 arrests he had participated in and, also, the word would get
13 out that he is a police officer, that would be an additional
14 concern. I mean, he did what he did and he is going to be
15 punished, and he understands that, but the kind of time he is
16 going to do would be particularly hard.

17 In addition, BOP policy for police officers -- again,
18 as a matter of protection -- is to send them out of the circuit
19 to do their time, so they are further away from family. One of
20 the officers is in Virginia. Another is in New Hampshire.

21 Mr. Oklu has very close family. Two of his sisters
22 are here. His brother and brother-in-law were here on
23 Thursday. They can't take another day off from work so they
24 can't come.

25 So this isn't an argument for reduced sentence in the

D4idokls

Sentence

1 sense that below the guidelines. All I am asking is the Court
2 treat Mr. Oklu in a manner similar to the other officers. He
3 by no means was the worst. The Court had had one of the other
4 officers before it previously, Mr. Trischitta. I would think
5 somewhere in the middle of the guidelines would be much more
6 appropriate for what he did, especially given that Mr. Masso
7 would -- as things now stand, if the Court were to adopt the
8 recommendation of Probation, the difference between the two of
9 them is 11 months, between the leader/organizer and the one who
10 got this whole thing going.

11 So for all of those reasons I would request the Court
12 to sentence him somewhere in the middle of the guidelines and
13 let him voluntarily surrender. He is certainly not a flight
14 risk, and I think hopefully the Court satisfied that he is not
15 a drug user.

16 THE COURT: All right. Thank you, Mr. Weinstein.

17 MR. WEINSTEIN: Thank you, Judge.

18 THE COURT: Ms. Cohen, does the government wish to be
19 heard?

20 MS. COHEN: Yes, your Honor.

21 As the government set forth in our papers, we believe
22 a sentence within the guidelines is appropriate and even a
23 sentence at the top of the guidelines.

24 The fact that this defendant was out making arrests at
25 the same time that he is moving guns onto the streets of New

D4idokls

Sentence

1 York City I think is particularly egregious and I think should
2 be considered by the Court in framing an appropriate sentence
3 in this case.

4 This defendant was a core member of this conspiracy.
5 He was a particularly active member. A guidelines' sentence
6 here is commensurate with sentences received by other
7 defendants and their relative culpability.

8 He participated in multiple trips. He moved
9 cigarettes into New York City that he believed were stolen. He
10 moved counterfeit merchandise in. He drove the cars. He
11 talked about using the knowledge he had as a police officer to
12 help evade law enforcement on those trips.

13 He viewed the guns that defendant Masso transported in
14 the duffel bag, the 20 guns, almost all of which were defaced,
15 he viewed them before Masso took them in the car, and he drove
16 one of the other Ryder vans or U-Haul vans that he rented
17 filled with cigarettes.

18 He also participated in the movement of stolen slot
19 machines both times from Atlantic City into New York. And,
20 also, he participated in what he thought was the theft of
21 cigarettes from the trucks in Virginia, where one of the other
22 defendants used a bolt cutter to break into tractor trailers.
23 He helped to load up the cigarettes and he drove one of the
24 vans again back to New York.

25 He was paid \$35,000 in total for his role in these

D4idokls

Sentence

1 offenses. That is at the top of the amount of money paid out
2 to the co-conspirators. I think that does signify his role in
3 the offenses.

4 The government believes a guidelines' sentence here is
5 appropriate and not greater than necessary.

6 THE COURT: Thank you, Ms. Cohen.

7 MR. WEINSTEIN: Just two very short points, your
8 Honor.

9 THE COURT: Go ahead, Mr. Weinstein.

10 MR. WEINSTEIN: One, there is no evidence in this
11 case, and it is reflected by the guilty plea, that Mr. Oklu
12 knew the guns had defaced serial numbers. It is an absolute
13 liability thought crime, but there is certainly that and some
14 others.

15 Other officers participated in many, if not more,
16 trips, and according -- at least some of them did. One, for
17 example, 11 trips.

18 And, also, there were discussions by I think it was
19 Masso and others about evading police by taking I don't know
20 whether it was the Garden State rather than the New Jersey
21 Turnpike and others. He was a police officer and he violated
22 all of that and so did all the others. So the only issue is
23 where within that range of conduct is appropriate to place
24 Mr. Oklu.

25 THE COURT: As I understand, your client did see the

D4idokls

Sentence

1 guns.

2 MR. WEINSTEIN: He saw some guns, correct.

3 THE COURT: All right. Including an assault weapon.

4 MR. WEINSTEIN: I thought it was a shotgun but it may
5 have been an assault weapon.

6 THE COURT: An M-16.

7 MR. WEINSTEIN: He saw some of the guns, I don't know
8 how many, but so did others. He is not alone in that and it
9 was --

10 THE COURT: I understand that.

11 MR. WEINSTEIN: I am only asking for, you know, for a
12 sentence that would treat him similarly to others who have
13 committed similar acts. I am not excusing his acts. I am not
14 justifying them.

15 THE COURT: All right. Mr. Weinstein, does your
16 client wish to address the Court before sentence is imposed?

17 MR. WEINSTEIN: No, your Honor.

18 THE COURT: Very well.

19 The defendant, Ali Oklu, comes before this Court
20 having pled guilty to two serious crimes against the United
21 States -- a conspiracy to transport firearms and a conspiracy
22 to transport and receive stolen merchandise.

23 This Court has reviewed the presentence investigation
24 report, and as modified on the record here today, I adopt the
25 findings of fact in the report as my own and will cause the

D4idokls

Sentence

1 report to be docketed and filed as part of the record in this
2 case.

3 I will also cause Dr. Escobar's letter to be docketed
4 and filed but placed under seal.

5 Turning first to the guidelines' calculation in this
6 case.

7 With respect to the conspiracy to transport firearms,
8 the base offense level is 12, and four levels are added because
9 of the number of firearms that were transported. And another
10 four levels are added because a majority of the firearms that
11 were transported had altered or obliterated serial numbers.

12 Further, because Mr. Oklu was a police officer at the
13 time of the offense and used his training and law enforcement
14 knowledge to evade enforcement, an abuse of public trust
15 adjustment is appropriate, for an additional two levels.

16 And so his adjusted offense level on the conspiracy to
17 transport firearms is 22.

18 With respect to the conspiracy to transport and
19 receive stolen property, his base offense level is 6, and
20 because the stolen cigarettes, slot machines and firearms were
21 collectively valued at somewhere between 400,000 and \$1
22 million, another 14 levels are warranted. And here again
23 because he abused a position of public trust, a two-level
24 enhancement is appropriate. So his adjusted offense level on
25 the second conspiracy is 22.

D4idokls

Sentence

1 Applying the multiple-count adjustment, his combined
2 adjusted offense level is 24.

3 The defendant pled guilty before Magistrate Judge
4 Gorenstein back on December 11, 2012. I have reviewed the
5 minutes of that plea. I find that Mr. Oklu's plea was knowing
6 and voluntary and he has accepted responsibility, and,
7 accordingly, I grant him a three-level reduction.

8 And so his total offense level is 21. His Criminal
9 History Category is a I, because this is his first criminal
10 offense, and that yields a guideline range of 37 to 46 months.

11 Turning to the 3553(a) factors.

12 There is a compelling need for general deterrence
13 here. There is also a compelling need for specific deterrence.
14 The defendant was brought to the United States by his parents
15 as a young boy. He became a naturalized U.S. citizen as a
16 young boy. He enjoyed all the benefits of living and growing
17 up in the United States and getting an education here. By all
18 accounts from the presentence report, his parents provided a
19 wonderful home for him, including curfews after school to
20 ensure that he was home when he needed to be, and he himself
21 acknowledged to the probation officer that he wished he could
22 go back to those days, because they were happy ones for him.

23 But, Mr. Oklu, can't turn the clock back and you can't
24 undo what you've done. Perhaps sometime over the balance of
25 your life you'll try to make up for what you've done, but only

D4idokls

Sentence

1 time will tell.

2 These were heinous acts by a police officer. You've
3 got an education here and an education in law enforcement and
4 police science. This country has been very good to you and
5 your parents. And it is remarkable that you would betray all
6 the trust.

7 There doesn't appear to be any compelling circumstance
8 for you to engage in this criminal activity. You didn't have a
9 sick child at home, like another defendant in this case. You
10 had virtually no responsibilities. You were still living as an
11 adult and police officer under your parents' roof. And you
12 were earning a real good salary for a young man with no
13 financial obligations -- no children to support, no mortgage to
14 pay, but just some student loans. But for whatever reason, you
15 got involved in this and decided that it was all worth driving
16 around in a Mercedes convertible.

17 Those days are all coming to an end.

18 Police officers perform an honorable public service.
19 Among other things, they parole dangerous neighborhoods and put
20 their lives on the line to protect police officers and the
21 community. No police officer operates alone; they all rely on
22 their fellow officers as backup, and survive because of the
23 trust they build with them.

24 Your evaluations from your short career with the New
25 York City Police Department describe you as a, quote, solid,

D4idokls

Sentence

1 promising young officer, close quote. Elsewhere, your
2 supervisor wrote, someone, quote, who behaves to a high ethical
3 standard, close quote. Boy, did you pull the wool over their
4 eyes because you have been leading a life of a fraud.

5 You were described as an arrest-oriented officer who
6 could quickly identify suspicious or criminal activity and
7 address the situations appropriately. You had the potential
8 for a bright career. But you threw it all away. Instead, you
9 chose to betray your badge and your fellow officers. You sold
10 your integrity cheaply. While you were out arresting people
11 for breaking the law, you were committing crime yourself, and
12 the crimes were made all the more serious because you were a
13 cop.

14 And then you agreed to transport stolen firearms in
15 interstate commerce. You not only betrayed your fellow
16 officers, Mr. Oklu, you placed their lives at risk. If things
17 had gone according to your plan, three M-16 rifles, a shotgun,
18 and 16 handguns would be out on the streets of our city. You
19 knew exactly what kind of danger you were unleashing on the
20 community and your fellow officers. The victims of gun
21 violence are almost never present in these sentencing
22 proceedings. They're the four-year-old child who was shot to
23 death in the Bronx because they were in the wrong place at the
24 wrong time, or they're cops, like Detective Russel Timoshenko.
25 There are countless other victims and family members who are

D4idokls

Sentence

1 left to deal with the aftermath of gun violence. But you
2 didn't care about that. I guess you cared about tooling around
3 in your Mercedes convertible.

4 Your criminal endeavors were not the result of a
5 momentary lapse; you participated in numerous trips to retrieve
6 purportedly stolen slot machines and cigarettes and guns. And
7 you were involved in the planning stages of these crimes, using
8 your tactical knowledge gained from the Police Department to
9 plan driving routes, explaining how the vehicles should not
10 travel together, and helping to pick out the types of vehicles
11 to be used to best facilitate these crimes.

12 Your participation in these crimes is a disgrace.

13 This Court recognizes the need to avoid unwarranted
14 disparities in sentencing. This Court observes that, unlike
15 Joseph Trischitta, who was sentenced by this Court, Mr. Oklu
16 has virtually nothing to tilt the balance in his favor about
17 anything. He has enjoyed a comfortable, selfish life up until
18 this point in time, and it is against this backdrop that the
19 Court is prepared to impose sentence on him and put an end to
20 some of this.

21 So, Mr. Oklu, I would ask you to stand and the Court
22 would impose sentence.

23 Mr. Oklu, in my remarks I've tried to make it clear
24 how I view your conduct in this case. It is my judgment,
25 Mr. Oklu, that you be sentenced to a term of 46 months of

D4idokls

Sentence

1 imprisonment to run concurrently on each count, to be followed
2 by three years of supervised release to run concurrently on
3 each count.

4 I'm going to impose a fine on you of \$7,500.

5 I'm going to enter an order of forfeiture in the
6 amount of \$35,000, and I'm going to impose the mandatory \$200
7 special assessment in this case.

8 With respect to your supervised release, I'm going to
9 impose all of the standard conditions of supervised release and
10 the following special conditions:

11 First, that you submit your person, residence, place
12 of business, vehicle, or any other premises under your control
13 to a search on the basis that your probation officer has a
14 reasonable belief that contraband or other evidence of a
15 violation of the conditions of your release may be found. That
16 search can be conducted at a reasonable time and in a
17 reasonable manner. And your failure to submit to such a search
18 may be grounds for revocation. And so you are to inform any
19 other residents of the premises where you reside upon your
20 release that those premises may be subject to search pursuant
21 to this condition.

22 I'm also going to require you to provide your
23 probation officer with access to any requested financial
24 information during the period of your supervised release. You
25 are not to incur any new credit card charges or open additional

D4idokls

Sentence

1 lines of credit without the specific approval of your probation
2 officer during your term of supervised release. And I'm going
3 to require you to pay 15 percent of your gross monthly income
4 toward the fine that I've imposed upon your release.

5 Because the only sense I can make of your crime is
6 that you wanted to enjoy the better things in life that you
7 didn't think you could afford on the very fine salary that you
8 were receiving with overtime as a police officer. There are
9 plenty of people in this city who would welcome the opportunity
10 to have a job that paid what your job paid.

11 Now, this constitutes the sentence of this Court.

12 I advise you that to the extent you have not
13 previously waived your right to appeal, you have the right to
14 appeal.

15 I advise you further that if you cannot afford
16 counsel, counsel will be provided to you free of charge.

17 Mr. Weinstein has represented you admirably in this
18 case and done everything to help someone who seems incapable of
19 helping himself. I'm confident that he'll advise you further
20 with regard to your appellate rights.

21 You may be seated.

22 Are there any further applications?

23 MS. COHEN: Your Honor, the government at this time
24 moves to dismiss Count Two of the Information.

25 THE COURT: The government's application is granted.

D4idokls

Sentence

1 MS. COHEN: Thank you, your Honor.

2 And the government at this time would just seek a
3 modification of the defendant's bail status. You know, I
4 understand that the defendant has produced a letter from his
5 doctor regarding problems he has urinating on demand, so to
6 speak. But given that the letter from the doctor came way
7 after the Court -- after the fact, after the Court inquired,
8 given his financial history, the government believes that it
9 would be appropriate perhaps to impose electronic monitoring
10 pending his surrender date. And that would also address the
11 defense concern that if he were to surrender here to the MDC or
12 MCC that he would spend his time awaiting transfer to a
13 permanent assignment, that he would be held in the SHU, which
14 the government believes that is what would happen to ensure his
15 own safety, and perhaps a happy medium would be that electronic
16 monitoring be put in place.

17 MR. WEINSTEIN: Your Honor, the reason the letter was
18 produced as late as it was is because it wasn't an issue until
19 the Court mentioned it.

20 THE COURT: Probation apparently -- excuse me,
21 Pretrial Services never made it an issue.

22 MR. WEINSTEIN: Right.

23 THE COURT: All right? So I understand that.

24 MR. WEINSTEIN: OK. He clearly has never been a
25 flight risk. He has in no way violated any of his pretrial

D4idokls

Sentence

1 conditions. He is not going back to Turkey. He is a U.S.
2 citizen. His entire family is in the United States. They are
3 the ones who are on the hook for \$100,000 if he were to violate
4 those conditions.

5 And there is absolutely no evidence -- I know the
6 Court had reason to infer based on his failure to void, and
7 maybe there was something, but there is no evidence anywhere
8 that he has ever used drugs. So, I mean, he has got probably
9 about six weeks before he will -- the typical time it takes for
10 a designation. I don't think there is any need for more
11 restrictive pretrial conditions.

12 THE COURT: All right. I am going to deny the
13 government's application to modify the conditions of his
14 release while he is awaiting designation to a facility.

15 I fully expect that random drug testing, among other
16 things, will continue between now and the time of his surrender
17 to a facility to be designated by the Bureau of Prisons.

18 Mr. Oklu, do you understand that all of the conditions
19 that had previously been imposed on you are going to continue
20 to apply until your surrender?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Very well.

23 I'll require him to surrender to a facility to be
24 designated by the Bureau of Prisons on June 5.

25 MS. COHEN: Your Honor, just the original bail

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Sentence

1 condition did not require random drug testing, so I just wanted
2 to be clear that that has been modified.

3 THE COURT: Then I am modifying the bail conditions to
4 require random drug testing at the discretion of Pretrial.

5 MS. COHEN: And the government has a consent order of
6 forfeiture for your Honor's signature.

7 THE COURT: Hand it up and I will sign it.

8 MS. COHEN: Thank you, your Honor.

9 THE COURT: Anything further?

10 MS. COHEN: Not from the government, your Honor.

11 MR. WEINSTEIN: No, your Honor.

12 THE COURT: All right. This matter is concluded.

13 THE CLERK: All rise.

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